

27
 28 WHEREAS, rulemaking is not a matter of agency discretion;
 29 rulemaking authority is delegated by the Legislature for
 30 agencies to adopt statements of general applicability that
 31 interpret or implement law; the valid adoption of a rule
 32 requires both a grant of express rulemaking authority and a
 33 specific law to be implemented or interpreted, and

34 WHEREAS, the repeal or deletion of a redundant or
 35 unnecessary provision authorizing agency rulemaking does not
 36 repeal rulemaking authority otherwise provided that clearly
 37 applies to the same subject, and

38 WHEREAS, statutory provisions mandating rules, when the
 39 substantive law otherwise would be implemented either without
 40 need for administrative rules or by rulemaking under a broader
 41 grant of authority, may be repealed without altering the
 42 substantive law or rulemaking authority on which existing rules
 43 rely, NOW THEREFORE

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Paragraph (d) of subsection (3) of section
 48 390.012, Florida Statutes, is amended to read:

49 390.012 Powers of agency; rules; disposal of fetal
 50 remains.—

51 (3) For clinics that perform or claim to perform abortions
 52 after the first trimester of pregnancy, the agency shall adopt

53 rules pursuant to ss. 120.536(1) and 120.54 to implement the
 54 provisions of this chapter, including the following:

55 (d) Rules relating to the medical screening and evaluation
 56 of each abortion clinic patient. At a minimum, these rules shall
 57 require:

58 1. A medical history including reported allergies to
 59 medications, antiseptic solutions, or latex; past surgeries; and
 60 an obstetric and gynecological history.

61 2. A physical examination, including a bimanual
 62 examination estimating uterine size and palpation of the adnexa.

63 3. The appropriate laboratory tests, including:

64 a. Urine or blood tests for pregnancy performed before the
 65 abortion procedure.

66 b. A test for anemia.

67 c. Rh typing, unless reliable written documentation of
 68 blood type is available.

69 d. Other tests as indicated from the physical examination.

70 4. An ultrasound evaluation for all patients. The rules
 71 shall require that if a person who is not a physician performs
 72 an ultrasound examination, that person shall have documented
 73 evidence that he or she has completed a course in the operation
 74 of ultrasound equipment as prescribed in rule. ~~The rules shall~~
 75 ~~require clinics to be in compliance with s. 390.0111.~~

76 5. That the physician is responsible for estimating the
 77 gestational age of the fetus based on the ultrasound examination
 78 and obstetric standards in keeping with established standards of

79 care regarding the estimation of fetal age as defined in rule
 80 and shall write the estimate in the patient's medical history.
 81 The physician shall keep original prints of each ultrasound
 82 examination of a patient in the patient's medical history file.

83 Section 2. Subsection (11) of section 400.021, Florida
 84 Statutes, is amended to read:

85 400.021 Definitions.—When used in this part, unless the
 86 context otherwise requires, the term:

87 (11) "Nursing home bed" means an accommodation that ~~which~~
 88 is ready for immediate occupancy, or is capable of being made
 89 ready for occupancy within 48 hours, excluding provision of
 90 staffing; and that ~~which~~ conforms to minimum space requirements,
 91 including the availability of appropriate equipment and
 92 furnishings within the 48 hours, as specified by ~~rule of~~ the
 93 agency, for the provision of services specified in this part to
 94 a single resident.

95 Section 3. Subsection (3) of section 400.0712, Florida
 96 Statutes, is repealed:

97 400.0712 Application for inactive license.—

98 ~~(3) The agency shall adopt rules pursuant to ss.~~
 99 ~~120.536(1) and 120.54 necessary to implement this section.~~

100 Section 4. Section 400.23, Florida Statutes, is amended to
 101 read:

102 400.23 Rules; evaluation and deficiencies; licensure
 103 status.—

104 (1) It is the intent of the Legislature that rules

105 published and enforced pursuant to this part and part II of
106 chapter 408 shall include criteria by which a reasonable and
107 consistent quality of resident care may be ensured and the
108 results of such resident care can be demonstrated and by which
109 safe and sanitary nursing homes can be provided. It is further
110 intended that reasonable efforts be made to accommodate the
111 needs and preferences of residents to enhance the quality of
112 life in a nursing home. In addition, efforts shall be made to
113 minimize the paperwork associated with the reporting and
114 documentation requirements of these rules.

115 (2) Pursuant to the intention of the Legislature, the
116 agency, in consultation with the Department of Health and the
117 Department of Elderly Affairs, may ~~shall~~ adopt ~~and enforce~~ rules
118 to implement this part and part II of chapter 408. The rules
119 shall specify, but not be limited to, ~~which shall include~~
120 reasonable and fair criteria in relation to:

121 (a) The location of the facility and housing conditions
122 that will ensure the health, safety, and comfort of residents,
123 including an adequate call system. In making such rules, the
124 agency shall be guided by criteria recommended by nationally
125 recognized reputable professional groups and associations with
126 knowledge of such subject matters. The agency shall update or
127 revise such criteria as the need arises. The agency may require
128 alterations to a building if it determines that an existing
129 condition constitutes a distinct hazard to life, health, or
130 safety. In performing any inspections of facilities authorized

131 | by this part or part II of chapter 408, the agency may enforce
132 | the special-occupancy provisions of the Florida Building Code
133 | and the Florida Fire Prevention Code which apply to nursing
134 | homes. Residents or their representatives shall be able to
135 | request a change in the placement of the bed in their room,
136 | provided that at admission they are presented with a room that
137 | meets requirements of the Florida Building Code. The location of
138 | a bed may be changed if the requested placement does not
139 | infringe on the resident's roommate or interfere with the
140 | resident's care or safety as determined by the care planning
141 | team in accordance with facility policies and procedures. In
142 | addition, the bed placement may not be used as a restraint. Each
143 | facility shall maintain a log of resident rooms with beds that
144 | are not in strict compliance with the Florida Building Code in
145 | order for such log to be used by surveyors and nurse monitors
146 | during inspections and visits. A resident or resident
147 | representative who requests that a bed be moved shall sign a
148 | statement indicating that he or she understands the room will
149 | not be in compliance with the Florida Building Code, but they
150 | would prefer to exercise their right to self-determination. The
151 | statement must be retained as part of the resident's care plan.
152 | Any facility that offers this option must submit a letter signed
153 | by the nursing home administrator of record to the agency
154 | notifying it of this practice with a copy of the policies and
155 | procedures of the facility. The agency is directed to provide
156 | assistance to the Florida Building Commission in updating the

157 construction standards of the code relative to nursing homes.

158 (b) The number and qualifications of all personnel,
 159 including management, medical, nursing, and other professional
 160 personnel, and nursing assistants, orderlies, and support
 161 personnel, having responsibility for any part of the care given
 162 residents.

163 (c) All sanitary conditions within the facility and its
 164 surroundings, including water supply, sewage disposal, food
 165 handling, and general hygiene which will ensure the health and
 166 comfort of residents.

167 (d) The equipment essential to the health and welfare of
 168 the residents.

169 (e) A uniform accounting system.

170 (f) The care, treatment, and maintenance of residents and
 171 measurement of the quality and adequacy thereof, based on rules
 172 developed under this chapter and the Omnibus Budget
 173 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
 174 1987), Title IV (Medicare, Medicaid, and Other Health-Related
 175 Programs), Subtitle C (Nursing Home Reform), as amended.

176 (g) The preparation and annual update of a comprehensive
 177 emergency management plan. The agency shall establish ~~adopt~~
 178 ~~rules establishing~~ minimum criteria for the plan after
 179 consultation with the Division of Emergency Management. At a
 180 minimum, ~~the rules must provide for~~ plan components shall
 181 provide for ~~that address~~ emergency evacuation transportation;
 182 adequate sheltering arrangements; postdisaster activities,

183 including emergency power, food, and water; postdisaster
 184 transportation; supplies; staffing; emergency equipment;
 185 individual identification of residents and transfer of records;
 186 and responding to family inquiries. The comprehensive emergency
 187 management plan is subject to review and approval by the local
 188 emergency management agency. During its review, the local
 189 emergency management agency shall ensure that the following
 190 agencies, at a minimum, are given the opportunity to review the
 191 plan: the Department of Elderly Affairs, the Department of
 192 Health, the Agency for Health Care Administration, and the
 193 Division of Emergency Management. Also, appropriate volunteer
 194 organizations must be given the opportunity to review the plan.
 195 The local emergency management agency shall complete its review
 196 within 60 days and either approve the plan or advise the
 197 facility of necessary revisions.

198 (h) The availability, distribution, and posting of reports
 199 and records pursuant to s. 400.191 and the Gold Seal Program
 200 pursuant to s. 400.235.

201 (3) (a) 1. The agency shall enforce ~~adopt rules providing~~
 202 minimum staffing requirements for nursing home facilities that.
 203 ~~These requirements~~ must include, for each facility:

204 a. A minimum weekly average of certified nursing assistant
 205 and licensed nursing staffing combined of 3.6 hours of direct
 206 care per resident per day. As used in this sub-subparagraph, a
 207 week is defined as Sunday through Saturday.

208 b. A minimum certified nursing assistant staffing of 2.5

209 hours of direct care per resident per day. A facility may not
210 staff below one certified nursing assistant per 20 residents.

211 c. A minimum licensed nursing staffing of 1.0 hour of
212 direct care per resident per day. A facility may not staff below
213 one licensed nurse per 40 residents.

214 2. Nursing assistants employed under s. 400.211(2) may be
215 included in computing the staffing ratio for certified nursing
216 assistants if their job responsibilities include only nursing-
217 assistant-related duties.

218 3. Each nursing home facility must document compliance
219 with staffing standards as required under this paragraph and
220 post daily the names of staff on duty for the benefit of
221 facility residents and the public.

222 4. The agency shall recognize the use of licensed nurses
223 for compliance with minimum staffing requirements for certified
224 nursing assistants if the nursing home facility otherwise meets
225 the minimum staffing requirements for licensed nurses and the
226 licensed nurses are performing the duties of a certified nursing
227 assistant. Unless otherwise approved by the agency, licensed
228 nurses counted toward the minimum staffing requirements for
229 certified nursing assistants must exclusively perform the duties
230 of a certified nursing assistant for the entire shift and not
231 also be counted toward the minimum staffing requirements for
232 licensed nurses. If the agency approved a facility's request to
233 use a licensed nurse to perform both licensed nursing and
234 certified nursing assistant duties, the facility must allocate

235 the amount of staff time specifically spent on certified nursing
 236 assistant duties for the purpose of documenting compliance with
 237 minimum staffing requirements for certified and licensed nursing
 238 staff. The hours of a licensed nurse with dual job
 239 responsibilities may not be counted twice.

240 (b) Nonnursing staff providing eating assistance to
 241 residents shall not count toward compliance with minimum
 242 staffing standards.

243 (c) Licensed practical nurses licensed under chapter 464
 244 who are providing nursing services in nursing home facilities
 245 under this part may supervise the activities of other licensed
 246 practical nurses, certified nursing assistants, and other
 247 unlicensed personnel providing services in such facilities in
 248 accordance with rules adopted by the Board of Nursing.

249 (4) ~~Rules developed pursuant to~~ This section does ~~shall~~
 250 not restrict the use of shared staffing and shared programming
 251 in facilities that ~~which~~ are part of retirement communities that
 252 provide multiple levels of care and otherwise meet the
 253 requirement of law or rule.

254 (5) ~~The agency, in collaboration with the Division of~~
 255 ~~Children's Medical Services of the Department of Health, must~~
 256 ~~adopt rules for:~~

257 (a) Minimum standards of care for persons under 21 years
 258 of age who reside in nursing home facilities may be established
 259 by the agency in collaboration with the Division of Children's
 260 Medical Services of the Department of Health. A facility may be

261 | exempted from these standards and the provisions of paragraph
 262 | (b) for specific persons between 18 and 21 years of age, if the
 263 | person's physician agrees that minimum standards of care based
 264 | on age are not necessary.

265 | (b) The following ~~Minimum~~ staffing requirements for
 266 | persons under 21 years of age who reside in nursing home
 267 | facilities, ~~which~~ apply in lieu of the requirements contained in
 268 | subsection (3) :-

269 | 1. For persons under 21 years of age who require skilled
 270 | care:

271 | a. A minimum combined average of 3.9 hours of direct care
 272 | per resident per day must be provided by licensed nurses,
 273 | respiratory therapists, respiratory care practitioners, and
 274 | certified nursing assistants.

275 | b. A minimum licensed nursing staffing of 1.0 hour of
 276 | direct care per resident per day must be provided.

277 | c. No more than 1.5 hours of certified nursing assistant
 278 | care per resident per day may be counted in determining the
 279 | minimum direct care hours required.

280 | d. One registered nurse must be on duty on the site 24
 281 | hours per day on the unit where children reside.

282 | 2. For persons under 21 years of age who are medically
 283 | fragile:

284 | a. A minimum combined average of 5.0 hours of direct care
 285 | per resident per day must be provided by licensed nurses,
 286 | respiratory therapists, respiratory care practitioners, and

287 certified nursing assistants.

288 b. A minimum licensed nursing staffing of 1.7 hours of
289 direct care per resident per day must be provided.

290 c. No more than 1.5 hours of certified nursing assistant
291 care per resident per day may be counted in determining the
292 minimum direct care hours required.

293 d. One registered nurse must be on duty on the site 24
294 hours per day on the unit where children reside.

295 (6) Prior to conducting a survey of the facility, the
296 survey team shall obtain a copy of the local long-term care
297 ombudsman council report on the facility. Problems noted in the
298 report shall be incorporated into and followed up through the
299 agency's inspection process. This procedure does not preclude
300 the local long-term care ombudsman council from requesting the
301 agency to conduct a followup visit to the facility.

302 (7) The agency shall, at least every 15 months, evaluate
303 all nursing home facilities and make a determination as to the
304 degree of compliance by each licensee with the established rules
305 adopted under this part as a basis for assigning a licensure
306 status to that facility. The agency shall base its evaluation on
307 the most recent inspection report, taking into consideration
308 findings from other official reports, surveys, interviews,
309 investigations, and inspections. In addition to license
310 categories authorized under part II of chapter 408, the agency
311 shall assign a licensure status of standard or conditional to
312 each nursing home.

313 (a) A standard licensure status means that a facility has
314 no class I or class II deficiencies and has corrected all class
315 III deficiencies within the time established by the agency.

316 (b) A conditional licensure status means that a facility,
317 due to the presence of one or more class I or class II
318 deficiencies, or class III deficiencies not corrected within the
319 time established by the agency, is not in substantial compliance
320 at the time of the survey with criteria established under this
321 part or with rules adopted by the agency. If the facility has no
322 class I, class II, or class III deficiencies at the time of the
323 followup survey, a standard licensure status may be assigned.

324 (c) In evaluating the overall quality of care and services
325 and determining whether the facility will receive a conditional
326 or standard license, the agency shall consider the needs and
327 limitations of residents in the facility and the results of
328 interviews and surveys of a representative sampling of
329 residents, families of residents, ombudsman council members in
330 the planning and service area in which the facility is located,
331 guardians of residents, and staff of the nursing home facility.

332 (d) The current licensure status of each facility must be
333 indicated in bold print on the face of the license. A list of
334 the deficiencies of the facility shall be posted in a prominent
335 place that is in clear and unobstructed public view at or near
336 the place where residents are being admitted to that facility.
337 Licensees receiving a conditional licensure status for a
338 facility shall prepare, within 10 working days after receiving

339 notice of deficiencies, a plan for correction of all
 340 deficiencies and shall submit the plan to the agency for
 341 approval.

342 (e) The agency shall ~~adopt rules that~~:

343 1. Establish uniform procedures for the evaluation of
 344 facilities.

345 2. Provide criteria in the areas referenced in paragraph
 346 (c).

347 3. Address other areas necessary for carrying out the
 348 intent of this section.

349 (8) The agency shall ensure ~~adopt rules pursuant to this~~
 350 ~~part and part II of chapter 408 to provide~~ that, when the
 351 criteria established under subsection (2) are not met, such
 352 deficiencies shall be classified according to the nature and the
 353 scope of the deficiency. The scope shall be cited as isolated,
 354 patterned, or widespread. An isolated deficiency is a deficiency
 355 affecting one or a very limited number of residents, or
 356 involving one or a very limited number of staff, or a situation
 357 that occurred only occasionally or in a very limited number of
 358 locations. A patterned deficiency is a deficiency where more
 359 than a very limited number of residents are affected, or more
 360 than a very limited number of staff are involved, or the
 361 situation has occurred in several locations, or the same
 362 resident or residents have been affected by repeated occurrences
 363 of the same deficient practice but the effect of the deficient
 364 practice is not found to be pervasive throughout the facility. A

365 widespread deficiency is a deficiency in which the problems
366 causing the deficiency are pervasive in the facility or
367 represent systemic failure that has affected or has the
368 potential to affect a large portion of the facility's residents.
369 The agency shall indicate the classification on the face of the
370 notice of deficiencies as follows:

371 (a) A class I deficiency is a deficiency that the agency
372 determines presents a situation in which immediate corrective
373 action is necessary because the facility's noncompliance has
374 caused, or is likely to cause, serious injury, harm, impairment,
375 or death to a resident receiving care in a facility. The
376 condition or practice constituting a class I violation shall be
377 abated or eliminated immediately, unless a fixed period of time,
378 as determined by the agency, is required for correction. A class
379 I deficiency is subject to a civil penalty of \$10,000 for an
380 isolated deficiency, \$12,500 for a patterned deficiency, and
381 \$15,000 for a widespread deficiency. The fine amount shall be
382 doubled for each deficiency if the facility was previously cited
383 for one or more class I or class II deficiencies during the last
384 licensure inspection or any inspection or complaint
385 investigation since the last licensure inspection. A fine must
386 be levied notwithstanding the correction of the deficiency.

387 (b) A class II deficiency is a deficiency that the agency
388 determines has compromised the resident's ability to maintain or
389 reach his or her highest practicable physical, mental, and
390 psychosocial well-being, as defined by an accurate and

391 comprehensive resident assessment, plan of care, and provision
392 of services. A class II deficiency is subject to a civil penalty
393 of \$2,500 for an isolated deficiency, \$5,000 for a patterned
394 deficiency, and \$7,500 for a widespread deficiency. The fine
395 amount shall be doubled for each deficiency if the facility was
396 previously cited for one or more class I or class II
397 deficiencies during the last licensure inspection or any
398 inspection or complaint investigation since the last licensure
399 inspection. A fine shall be levied notwithstanding the
400 correction of the deficiency.

401 (c) A class III deficiency is a deficiency that the agency
402 determines will result in no more than minimal physical, mental,
403 or psychosocial discomfort to the resident or has the potential
404 to compromise the resident's ability to maintain or reach his or
405 her highest practical physical, mental, or psychosocial well-
406 being, as defined by an accurate and comprehensive resident
407 assessment, plan of care, and provision of services. A class III
408 deficiency is subject to a civil penalty of \$1,000 for an
409 isolated deficiency, \$2,000 for a patterned deficiency, and
410 \$3,000 for a widespread deficiency. The fine amount shall be
411 doubled for each deficiency if the facility was previously cited
412 for one or more class I or class II deficiencies during the last
413 licensure inspection or any inspection or complaint
414 investigation since the last licensure inspection. A citation
415 for a class III deficiency must specify the time within which
416 the deficiency is required to be corrected. If a class III

417 deficiency is corrected within the time specified, a civil
 418 penalty may not be imposed.

419 (d) A class IV deficiency is a deficiency that the agency
 420 determines has the potential for causing no more than a minor
 421 negative impact on the resident. If the class IV deficiency is
 422 isolated, no plan of correction is required.

423 (9) Civil penalties paid by any licensee under subsection
 424 (8) shall be deposited in the Health Care Trust Fund and
 425 expended as provided in s. 400.063.

426 (10) Agency records, reports, ranking systems, Internet
 427 information, and publications must be promptly updated to
 428 reflect the most current agency actions.

429
 430 Section 5. Subsection (7) of section 400.487, Florida
 431 Statutes, is amended to read:

432 400.487 Home health service agreements; physician's,
 433 physician assistant's, and advanced registered nurse
 434 practitioner's treatment orders; patient assessment;
 435 establishment and review of plan of care; provision of services;
 436 orders not to resuscitate.—

437 (7) Home health agency personnel may withhold or withdraw
 438 cardiopulmonary resuscitation if presented with an order not to
 439 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
 440 ~~adopt rules providing for the implementation of such orders.~~
 441 Home health personnel and agencies shall not be subject to
 442 criminal prosecution or civil liability, nor be considered to

443 have engaged in negligent or unprofessional conduct, for
444 withholding or withdrawing cardiopulmonary resuscitation
445 pursuant to such an order ~~and rules adopted by the agency.~~

446 Section 6. Section 400.497, Florida Statutes, is amended
447 to read:

448 400.497 Rules establishing minimum standards.—The agency
449 may ~~shall~~ adopt, ~~publish, and enforce~~ rules to implement part II
450 of chapter 408 and this part, including, ~~as applicable, the~~
451 agency's duties and responsibilities under ss. 400.506 and
452 400.509. Rules shall specify, but not be limited to, which must
453 ~~provide~~ reasonable and fair minimum standards relating to:

454 (1) The home health aide competency test and home health
455 aide training. The agency shall create the home health aide
456 competency test and establish the curriculum and instructor
457 qualifications for home health aide training. Licensed home
458 health agencies may provide this training and shall furnish
459 documentation of such training to other licensed home health
460 agencies upon request. Successful passage of the competency test
461 by home health aides may be substituted for the training
462 required under this section and any rule adopted pursuant
463 thereto.

464 (2) Shared staffing. ~~The agency shall allow~~ Shared
465 staffing is permitted if the home health agency is part of a
466 retirement community that provides multiple levels of care, is
467 located on one campus, is licensed under this chapter or chapter
468 429, and otherwise meets the requirements of law and rule.

469 (3) The criteria for the frequency of onsite licensure
470 surveys.

471 (4) Licensure application and renewal.

472 (5) Oversight by the director of nursing, including. ~~The~~
473 ~~agency shall develop rules related to:~~

474 (a) Standards that address oversight responsibilities by
475 the director of nursing of skilled nursing and personal care
476 services provided by the home health agency's staff;

477 (b) Requirements for a director of nursing to provide to
478 the agency, upon request, a certified daily report of the home
479 health services provided by a specified direct employee or
480 contracted staff member on behalf of the home health agency. The
481 agency may request a certified daily report only for a period
482 not to exceed 2 years prior to the date of the request; and

483 (c) A quality assurance program for home health services
484 provided by the home health agency.

485 (6) Conditions for using a recent unannounced licensure
486 inspection for the inspection required in s. 408.806 related to
487 a licensure application associated with a change in ownership of
488 a licensed home health agency.

489 (7) The requirements for onsite and electronic
490 accessibility of supervisory personnel of home health agencies.

491 (8) Information to be included in patients' records.

492 (9) Geographic service areas.

493 (10) Preparation of a comprehensive emergency management
494 plan pursuant to s. 400.492.

495 ~~(a) The Agency for Health Care Administration shall adopt~~
 496 ~~rules establishing minimum criteria for the plan and plan~~
 497 ~~updates, with the concurrence of the Department of Health and in~~
 498 ~~consultation with the Division of Emergency Management.~~

499 (a) ~~(b)~~ An emergency plan ~~The rules must address the~~
 500 ~~requirements in s. 400.492. In addition, the rules shall provide~~
 501 ~~for the maintenance of patient-specific medication lists that~~
 502 ~~can accompany patients who are transported from their homes.~~

503 (b) ~~(e)~~ The plan is subject to review and approval by the
 504 county health department. During its review, the county health
 505 department shall contact state and local health and medical
 506 stakeholders when necessary. The county health department shall
 507 complete its review to ensure that the plan is in accordance
 508 with the requirements of law ~~criteria in the Agency for Health~~
 509 ~~Care Administration rules~~ within 90 days after receipt of the
 510 plan and shall approve the plan or advise the home health agency
 511 of necessary revisions. If the home health agency fails to
 512 submit a plan or fails to submit the requested information or
 513 revisions to the county health department within 30 days after
 514 written notification from the county health department, the
 515 county health department shall notify the Agency for Health Care
 516 Administration. The agency shall notify the home health agency
 517 that its failure constitutes a deficiency, subject to a fine of
 518 \$5,000 per occurrence. If the plan is not submitted, information
 519 is not provided, or revisions are not made as requested, the
 520 agency may impose the fine.

521 (c)~~(d)~~ For any home health agency that operates in more
 522 than one county, the Department of Health shall review the plan,
 523 after consulting with state and local health and medical
 524 stakeholders when necessary. The department shall complete its
 525 review within 90 days after receipt of the plan and shall
 526 approve the plan or advise the home health agency of necessary
 527 revisions. The department shall make every effort to avoid
 528 imposing differing requirements on a home health agency that
 529 operates in more than one county as a result of differing or
 530 conflicting comprehensive plan requirements of the counties in
 531 which the home health agency operates.

532 (d)~~(e)~~ The requirements in this subsection do not apply
 533 to:

534 1. A facility that is certified under chapter 651 and has
 535 a licensed home health agency used exclusively by residents of
 536 the facility; or

537 2. A retirement community that consists of residential
 538 units for independent living and either a licensed nursing home
 539 or an assisted living facility, and has a licensed home health
 540 agency used exclusively by the residents of the retirement
 541 community, provided the comprehensive emergency management plan
 542 for the facility or retirement community provides for continuous
 543 care of all residents with special needs during an emergency.

544 Section 7. Paragraph (f) of subsection (12) of section
 545 400.506, Florida Statutes, is amended, subsection (18) is
 546 renumbered as subsection (17), and present subsection (17) of

547 that section is amended, to read:

548 400.506 Licensure of nurse registries; requirements;
549 penalties.—

550 (12) Each nurse registry shall prepare and maintain a
551 comprehensive emergency management plan that is consistent with
552 the criteria in this subsection and with the local special needs
553 plan. The plan shall be updated annually. The plan shall include
554 the means by which the nurse registry will continue to provide
555 the same type and quantity of services to its patients who
556 evacuate to special needs shelters which were being provided to
557 those patients prior to evacuation. The plan shall specify how
558 the nurse registry shall facilitate the provision of continuous
559 care by persons referred for contract to persons who are
560 registered pursuant to s. 252.355 during an emergency that
561 interrupts the provision of care or services in private
562 residences. Nurse registries may establish links to local
563 emergency operations centers to determine a mechanism by which
564 to approach specific areas within a disaster area in order for a
565 provider to reach its clients. Nurse registries shall
566 demonstrate a good faith effort to comply with the requirements
567 of this subsection by documenting attempts of staff to follow
568 procedures outlined in the nurse registry's comprehensive
569 emergency management plan which support a finding that the
570 provision of continuing care has been attempted for patients
571 identified as needing care by the nurse registry and registered
572 under s. 252.355 in the event of an emergency under this

573 subsection.

574 ~~(f) The Agency for Health Care Administration shall adopt~~
 575 ~~rules establishing minimum criteria for the comprehensive~~
 576 ~~emergency management plan and plan updates required by this~~
 577 ~~subsection, with the concurrence of the Department of Health and~~
 578 ~~in consultation with the Division of Emergency Management.~~

579 ~~(17) The Agency for Health Care Administration shall adopt~~
 580 ~~rules to implement this section and part II of chapter 408.~~

581 ~~(18)~~(17) An administrator may manage only one nurse
 582 registry, except that an administrator may manage up to five
 583 registries if all five registries have identical controlling
 584 interests as defined in s. 408.803 and are located within one
 585 agency geographic service area or within an immediately
 586 contiguous county. An administrator shall designate, in writing,
 587 for each licensed entity, a qualified alternate administrator to
 588 serve during the administrator's absence.

589 Section 8. Subsection (7) of section 400.509, Florida
 590 Statutes, is amended to read:

591 400.509 Registration of particular service providers
 592 exempt from licensure; certificate of registration; regulation
 593 of registrants.—

594 ~~(7) The Agency for Health Care Administration shall adopt~~
 595 ~~rules to administer this section and part II of chapter 408.~~

597 Section 9. Subsection (8) of section 400.6095, Florida
 598 Statutes, is amended to read:

599 400.6095 Patient admission; assessment; plan of care;
 600 discharge; death.—

601 (8) The hospice care team may withhold or withdraw
 602 cardiopulmonary resuscitation if presented with an order not to
 603 resuscitate executed pursuant to s. 401.45. ~~The department shall~~
 604 ~~adopt rules providing for the implementation of such orders.~~
 605 Hospice staff shall not be subject to criminal prosecution or
 606 civil liability, nor be considered to have engaged in negligent
 607 or unprofessional conduct, for withholding or withdrawing
 608 cardiopulmonary resuscitation pursuant to such an order and
 609 applicable rules. The absence of an order to resuscitate
 610 executed pursuant to s. 401.45 does not preclude a physician
 611 from withholding or withdrawing cardiopulmonary resuscitation as
 612 otherwise permitted by law.

613 Section 10. Section 400.914, Florida Statutes, is amended
 614 to read:

615 400.914 Rulemaking; ~~Rules establishing~~ standards.—

616 (1) Pursuant to the intention of the Legislature to
 617 provide safe and sanitary facilities and healthful programs, the
 618 agency in conjunction with the Division of Children's Medical
 619 Services of the Department of Health ~~shall~~may ~~adopt and publish~~
 620 rules to implement the provisions of this part and part II of
 621 chapter 408, ~~which shall include reasonable and fair standards.~~
 622 Any conflict between these standards and those that may be set
 623 forth in local, county, or city ordinances shall be resolved in
 624 favor of those having statewide effect. ~~Such standards shall~~

625 ~~relate~~Rules shall specify, but not be limited to, reasonable and
 626 fair standards relating to:

627 (a) The assurance that PPEC services are family centered
 628 and provide individualized medical, developmental, and family
 629 training services.

630 (b) The maintenance of PPEC centers, not in conflict with
 631 the provisions of chapter 553 and based upon the size of the
 632 structure and number of children, relating to plumbing, heating,
 633 lighting, ventilation, and other building conditions, including
 634 adequate space, which will ensure the health, safety, comfort,
 635 and protection from fire of the children served.

636 (c) The appropriate provisions of the most recent edition
 637 of the "Life Safety Code" (NFPA-101) shall be applied.

638 (d) The number and qualifications of all personnel who
 639 have responsibility for the care of the children served.

640 (e) All sanitary conditions within the PPEC center and its
 641 surroundings, including water supply, sewage disposal, food
 642 handling, and general hygiene, and maintenance thereof, which
 643 will ensure the health and comfort of children served.

644 (f) Programs and basic services promoting and maintaining
 645 the health and development of the children served and meeting
 646 the training needs of the children's legal guardians.

647 (g) Supportive, contracted, other operational, and
 648 transportation services.

649 (h) Maintenance of appropriate medical records, data, and
 650 information relative to the children and programs. Such records

651 shall be maintained in the facility for inspection by the
 652 agency.

653 ~~— (2) The agency shall adopt rules to ensure that:~~

654 ~~— (a) No child attends a PPEC center for more than 12 hours~~
 655 ~~within a 24-hour period.~~

656 ~~— (b) No PPEC center provides services other than those~~
 657 ~~provided to medically or technologically dependent children.~~

658 Section 11. Section 400.9141, Florida Statutes, is created
 659 to read:

660 400.9141 Limitations.—

661 (1) No child attends a PPEC center for more than 12 hours
 662 within a 24-hour period.

663 (2) No PPEC center provides services other than those
 664 provided to medically or technologically dependent children.

665 Section 12. Paragraph (a) of subsection (20) of section
 666 400.934, Florida Statutes, is amended to read:

667 400.934 Minimum standards.—As a requirement of licensure,
 668 home medical equipment providers shall:

669 (20) (a) Prepare and maintain a comprehensive emergency
 670 management plan that meets minimum criteria established by
 671 agency rule, including the maintenance of patient equipment and
 672 supply lists that can accompany patients who are transported
 673 from their homes. Such rules shall be formulated in consultation
 674 with the Department of Health and the Division of Emergency
 675 Management. ~~under s. 400.935.~~ The plan shall be updated annually
 676 and shall provide for continuing home medical equipment services

677 for life-supporting or life-sustaining equipment, as defined in
 678 s. 400.925, during an emergency that interrupts home medical
 679 equipment services in a patient's home. The plan shall include:

680 1. The means by which the home medical equipment provider
 681 will continue to provide equipment to perform the same type and
 682 quantity of services to its patients who evacuate to special
 683 needs shelters which were being provided to those patients prior
 684 to evacuation.

685 2. The means by which the home medical equipment provider
 686 establishes and maintains an effective response to emergencies
 687 and disasters, including plans for:

688 a. Notification of staff when emergency response measures
 689 are initiated.

690 b. Communication between staff members, county health
 691 departments, and local emergency management agencies, which
 692 includes provisions for a backup communications system.

693 c. Identification of resources necessary to continue
 694 essential care or services or referrals to other organizations
 695 subject to written agreement.

696 d. Contacting and prioritizing patients in need of
 697 continued medical equipment services and supplies.

698 Section 13. Section 400.935, Florida Statutes, is amended
 699 to read:

700 400.935 Rulemaking authority ~~Rules establishing minimum~~
 701 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ as
 702 necessary to implement this part and part II of chapter 408.7

703 ~~which must provide reasonable and fair minimum standards~~
 704 ~~relating to:~~

- 705 ~~(1) The qualifications and minimum training requirements~~
 706 ~~of all home medical equipment provider personnel.~~
- 707 ~~(2) Financial ability to operate.~~
- 708 ~~(3) The administration of the home medical equipment~~
 709 ~~provider.~~
- 710 ~~(4) Procedures for maintaining patient records.~~
- 711 ~~(5) Ensuring that the home medical equipment and services~~
 712 ~~provided by a home medical equipment provider are in accordance~~
 713 ~~with the plan of treatment established for each patient, when~~
 714 ~~provided as a part of a plan of treatment.~~
- 715 ~~(6) Contractual arrangements for the provision of home~~
 716 ~~medical equipment and services by providers not employed by the~~
 717 ~~home medical equipment provider providing for the consumer's~~
 718 ~~needs.~~
- 719 ~~(7) Physical location and zoning requirements.~~
- 720 ~~(8) Home medical equipment requiring home medical~~
 721 ~~equipment services.~~
- 722 ~~(9) Preparation of the comprehensive emergency management~~
 723 ~~plan under s. 400.934 and the establishment of minimum criteria~~
 724 ~~for the plan, including the maintenance of patient equipment and~~
 725 ~~supply lists that can accompany patients who are transported~~
 726 ~~from their homes. Such rules shall be formulated in consultation~~
 727 ~~with the Department of Health and the Division of Emergency~~
 728 ~~Management.~~

729 Section 14. Subsection (5) of section 400.962, Florida
 730 Statutes, is amended to read:

731 400.962 License required; license application.—

732 (5) The applicant must agree to provide or arrange for
 733 active treatment services by an interdisciplinary team to
 734 maximize individual independence or prevent regression or loss
 735 of functional status. ~~Standards for active treatment shall be~~
 736 ~~adopted by the Agency for Health Care Administration by rule~~
 737 ~~pursuant to ss. 120.536(1) and 120.54.~~ Active treatment services
 738 shall be provided in accordance with the individual support plan
 739 and shall be reimbursed as part of the per diem rate as paid
 740 under the Medicaid program.

741 Section 15. Subsections (2) and (3) of section 400.967,
 742 Florida Statutes, are amended to read:

743 400.967 Rules and classification of deficiencies.—

744 (2) ~~Pursuant to the intention of the Legislature,~~ The
 745 agency, in consultation with the Agency for Persons with
 746 Disabilities and the Department of Elderly Affairs, shall
 747 adopt and enforce rules as necessary to administer this part and
 748 part II of chapter 408, which may ~~shall~~ include ~~reasonable and~~
 749 ~~fair~~ criteria governing:

750 (a) The location and construction of the facility;
 751 including fire and life safety, plumbing, heating, cooling,
 752 lighting, ventilation, and other housing conditions that ensure
 753 the health, safety, and comfort of residents. The agency shall
 754 establish standards for facilities and equipment to increase the

755 extent to which new facilities and a new wing or floor added to
756 an existing facility after July 1, 2000, are structurally
757 capable of serving as shelters only for residents, staff, and
758 families of residents and staff, and equipped to be self-
759 supporting during and immediately following disasters. The
760 agency shall update or revise the criteria as the need arises.
761 All facilities must comply with those lifesafety code
762 requirements and building code standards applicable at the time
763 of approval of their construction plans. The agency may require
764 alterations to a building if it determines that an existing
765 condition constitutes a distinct hazard to life, health, or
766 safety. The agency may state the ~~shall adopt fair and reasonable~~
767 ~~rules setting forth~~ conditions under which existing facilities
768 undergoing additions, alterations, conversions, renovations, or
769 repairs are required to comply with the most recent updated or
770 revised standards.

771 (b) The number and qualifications of all personnel,
772 including management, medical nursing, and other personnel,
773 having responsibility for any part of the care given to
774 residents.

775 (c) All sanitary conditions within the facility and its
776 surroundings, including water supply, sewage disposal, food
777 handling, and general hygiene, which will ensure the health and
778 comfort of residents.

779 (d) The equipment essential to the health and welfare of
780 the residents.

781 (e) A uniform accounting system.

782 (f) The care, treatment, and maintenance of residents and
783 measurement of the quality and adequacy thereof.

784 (g) The preparation and annual update of a comprehensive
785 emergency management plan. After consultation with the Division
786 of Emergency Management the agency may ~~shall~~ ~~adopt~~ rules
787 ~~establishing~~ minimum criteria for ~~the plan after consultation~~
788 ~~with the Division of Emergency Management~~. At a minimum, the
789 ~~rules must provide for~~ plan components that address emergency
790 evacuation transportation; adequate sheltering arrangements;
791 postdisaster activities, including emergency power, food, and
792 water; postdisaster transportation; supplies; staffing;
793 emergency equipment; individual identification of residents and
794 transfer of records; and responding to family inquiries. The
795 comprehensive emergency management plan is subject to review and
796 approval by the local emergency management agency. During its
797 review, the local emergency management agency shall ensure that
798 the following agencies, at a minimum, are given the opportunity
799 to review the plan: the Department of Elderly Affairs, the
800 Agency for Persons with Disabilities, the Agency for Health Care
801 Administration, and the Division of Emergency Management. Also,
802 appropriate volunteer organizations must be given the
803 opportunity to review the plan. The local emergency management
804 agency shall complete its review within 60 days and either
805 approve the plan or advise the facility of necessary revisions.

806 (h) The use of restraint and seclusion. Such rules must be

807 consistent with recognized best practices; prohibit inherently
808 dangerous restraint or seclusion procedures; establish
809 limitations on the use and duration of restraint and seclusion;
810 establish measures to ensure the safety of clients and staff
811 during an incident of restraint or seclusion; establish
812 procedures for staff to follow before, during, and after
813 incidents of restraint or seclusion, including individualized
814 plans for the use of restraints or seclusion in emergency
815 situations; establish professional qualifications of and
816 training for staff who may order or be engaged in the use of
817 restraint or seclusion; establish requirements for facility data
818 collection and reporting relating to the use of restraint and
819 seclusion; and establish procedures relating to the
820 documentation of the use of restraint or seclusion in the
821 client's facility or program record.

822 (3) ~~The agency shall adopt rules to provide that,~~ When the
823 criteria established under this part and part II of chapter 408
824 are not met, such deficiencies shall be classified according to
825 the nature of the deficiency. The agency shall indicate the
826 classification on the face of the notice of deficiencies as
827 follows:

828 (a) Class I deficiencies are those which the agency
829 determines present an imminent danger to the residents or guests
830 of the facility or a substantial probability that death or
831 serious physical harm would result therefrom. The condition or
832 practice constituting a class I violation must be abated or

833 eliminated immediately, unless a fixed period of time, as
834 determined by the agency, is required for correction. A class I
835 deficiency is subject to a civil penalty in an amount not less
836 than \$5,000 and not exceeding \$10,000 for each deficiency. A
837 fine may be levied notwithstanding the correction of the
838 deficiency.

839 (b) Class II deficiencies are those which the agency
840 determines have a direct or immediate relationship to the
841 health, safety, or security of the facility residents, other
842 than class I deficiencies. A class II deficiency is subject to a
843 civil penalty in an amount not less than \$1,000 and not
844 exceeding \$5,000 for each deficiency. A citation for a class II
845 deficiency shall specify the time within which the deficiency
846 must be corrected. If a class II deficiency is corrected within
847 the time specified, no civil penalty shall be imposed, unless it
848 is a repeated offense.

849 (c) Class III deficiencies are those which the agency
850 determines to have an indirect or potential relationship to the
851 health, safety, or security of the facility residents, other
852 than class I or class II deficiencies. A class III deficiency is
853 subject to a civil penalty of not less than \$500 and not
854 exceeding \$1,000 for each deficiency. A citation for a class III
855 deficiency shall specify the time within which the deficiency
856 must be corrected. If a class III deficiency is corrected within
857 the time specified, no civil penalty shall be imposed, unless it
858 is a repeated offense.

859 Section 16. Subsection (2) of section 400.980, Florida
 860 Statutes, is amended to read:

861 400.980 Health care services pools.—

862 (2) The requirements of part II of chapter 408 apply to
 863 the provision of services that require licensure or registration
 864 pursuant to this part and part II of chapter 408 and to entities
 865 registered by or applying for such registration from the agency
 866 pursuant to this part. Registration or a license issued by the
 867 agency is required for the operation of a health care services
 868 pool in this state. In accordance with s. 408.805, an applicant
 869 or licensee shall pay a fee for each license application
 870 submitted using this part, part II of chapter 408, and
 871 applicable rules. The agency shall ~~adopt rules and~~ provide forms
 872 required for such registration and shall impose a registration
 873 fee in an amount sufficient to cover the cost of administering
 874 this part and part II of chapter 408. In addition to the
 875 requirements in part II of chapter 408, the registrant must
 876 provide the agency with any change of information contained on
 877 the original registration application within 14 days prior to
 878 the change.

879 Section 17. Subsection (43) of section 409.912, Florida
 880 Statutes, is amended to read:

881 409.912 Cost-effective purchasing of health care.—The
 882 agency shall purchase goods and services for Medicaid recipients
 883 in the most cost-effective manner consistent with the delivery
 884 of quality medical care. To ensure that medical services are

885 effectively utilized, the agency may, in any case, require a
886 confirmation or second physician's opinion of the correct
887 diagnosis for purposes of authorizing future services under the
888 Medicaid program. This section does not restrict access to
889 emergency services or poststabilization care services as defined
890 in 42 C.F.R. part 438.114. Such confirmation or second opinion
891 shall be rendered in a manner approved by the agency. The agency
892 shall maximize the use of prepaid per capita and prepaid
893 aggregate fixed-sum basis services when appropriate and other
894 alternative service delivery and reimbursement methodologies,
895 including competitive bidding pursuant to s. 287.057, designed
896 to facilitate the cost-effective purchase of a case-managed
897 continuum of care. The agency shall also require providers to
898 minimize the exposure of recipients to the need for acute
899 inpatient, custodial, and other institutional care and the
900 inappropriate or unnecessary use of high-cost services. The
901 agency shall contract with a vendor to monitor and evaluate the
902 clinical practice patterns of providers in order to identify
903 trends that are outside the normal practice patterns of a
904 provider's professional peers or the national guidelines of a
905 provider's professional association. The vendor must be able to
906 provide information and counseling to a provider whose practice
907 patterns are outside the norms, in consultation with the agency,
908 to improve patient care and reduce inappropriate utilization.
909 The agency may mandate prior authorization, drug therapy
910 management, or disease management participation for certain

911 populations of Medicaid beneficiaries, certain drug classes, or
912 particular drugs to prevent fraud, abuse, overuse, and possible
913 dangerous drug interactions. The Pharmaceutical and Therapeutics
914 Committee shall make recommendations to the agency on drugs for
915 which prior authorization is required. The agency shall inform
916 the Pharmaceutical and Therapeutics Committee of its decisions
917 regarding drugs subject to prior authorization. The agency is
918 authorized to limit the entities it contracts with or enrolls as
919 Medicaid providers by developing a provider network through
920 provider credentialing. The agency may competitively bid single-
921 source-provider contracts if procurement of goods or services
922 results in demonstrated cost savings to the state without
923 limiting access to care. The agency may limit its network based
924 on the assessment of beneficiary access to care, provider
925 availability, provider quality standards, time and distance
926 standards for access to care, the cultural competence of the
927 provider network, demographic characteristics of Medicaid
928 beneficiaries, practice and provider-to-beneficiary standards,
929 appointment wait times, beneficiary use of services, provider
930 turnover, provider profiling, provider licensure history,
931 previous program integrity investigations and findings, peer
932 review, provider Medicaid policy and billing compliance records,
933 clinical and medical record audits, and other factors. Providers
934 are not entitled to enrollment in the Medicaid provider network.
935 The agency shall determine instances in which allowing Medicaid
936 beneficiaries to purchase durable medical equipment and other

937 goods is less expensive to the Medicaid program than long-term
 938 rental of the equipment or goods. The agency may establish rules
 939 to facilitate purchases in lieu of long-term rentals in order to
 940 protect against fraud and abuse in the Medicaid program as
 941 defined in s. 409.913. The agency may seek federal waivers
 942 necessary to administer these policies.

943 (43) Subject to the availability of funds, the agency
 944 shall mandate a recipient's participation in a provider lock-in
 945 program, when appropriate, if a recipient is found by the agency
 946 to have used Medicaid goods or services at a frequency or amount
 947 not medically necessary, limiting the receipt of goods or
 948 services to medically necessary providers after the 21-day
 949 appeal process has ended, for a period of not less than 1 year.
 950 The lock-in programs shall include, but are not limited to,
 951 pharmacies, medical doctors, and infusion clinics. The
 952 limitation does not apply to emergency services and care
 953 provided to the recipient in a hospital emergency department.
 954 The agency shall seek any federal waivers necessary to implement
 955 this subsection. ~~The agency shall adopt any rules necessary to~~
 956 ~~comply with or administer this subsection.~~ This subsection
 957 expires October 1, 2014.

958 Section 18. Subsection (4) of section 429.255, Florida
 959 Statutes, is amended to read:

960 429.255 Use of personnel; emergency care.—

961 (4) Facility staff may withhold or withdraw
 962 cardiopulmonary resuscitation or the use of an automated

963 external defibrillator if presented with an order not to
 964 resuscitate executed pursuant to s. 401.45. ~~The department shall~~
 965 ~~adopt rules providing for the implementation of such orders.~~
 966 Facility staff and facilities shall not be subject to criminal
 967 prosecution or civil liability, nor be considered to have
 968 engaged in negligent or unprofessional conduct, for withholding
 969 or withdrawing cardiopulmonary resuscitation or use of an
 970 automated external defibrillator pursuant to such an order and
 971 rules adopted by the department. The absence of an order to
 972 resuscitate executed pursuant to s. 401.45 does not preclude a
 973 physician from withholding or withdrawing cardiopulmonary
 974 resuscitation or use of an automated external defibrillator as
 975 otherwise permitted by law.

976 Section 19. Subsection (3) of section 429.73, Florida
 977 Statutes, is amended to read:

978 429.73 Rules and standards relating to adult family-care
 979 homes.—

980 (3) ~~The department shall adopt rules providing for the~~
 981 ~~implementation of orders not to resuscitate.~~ The provider may
 982 withhold or withdraw cardiopulmonary resuscitation if presented
 983 with an order not to resuscitate executed pursuant to s. 401.45.
 984 The provider shall not be subject to criminal prosecution or
 985 civil liability, nor be considered to have engaged in negligent
 986 or unprofessional conduct, for withholding or withdrawing
 987 cardiopulmonary resuscitation pursuant to such an order and
 988 applicable rules.

989 Section 20. Subsection (10) of section 440.102, Florida
 990 Statutes, is amended to read:

991 440.102 Drug-free workplace program requirements.—The
 992 following provisions apply to a drug-free workplace program
 993 implemented pursuant to law or to rules adopted by the Agency
 994 for Health Care Administration:

995 (10) RULES.—~~The Agency for Health Care Administration~~
 996 ~~shall adopt rules~~ Pursuant to s. 112.0455, part II of chapter
 997 408, and criteria established by the United States Department of
 998 Health and Human Services, the agency shall adopt as general
 999 guidelines for modeling drug-free workplace laboratories,
 1000 concerning, but not limited to:

1001 (a) Standards for licensing drug-testing laboratories and
 1002 suspension and revocation of such licenses.

1003 (b) Urine, hair, blood, and other body specimens and
 1004 minimum specimen amounts that are appropriate for drug testing.

1005 (c) Methods of analysis and procedures to ensure reliable
 1006 drug-testing results, including standards for initial tests and
 1007 confirmation tests.

1008 (d) Minimum cutoff detection levels for each drug or
 1009 metabolites of such drug for the purposes of determining a
 1010 positive test result.

1011 (e) Chain-of-custody procedures to ensure proper
 1012 identification, labeling, and handling of specimens tested.

1013 (f) Retention, storage, and transportation procedures to
 1014 ensure reliable results on confirmation tests and retests.

1015 Section 21. Subsection (2) of section 483.245, Florida
 1016 Statutes, is amended to read:

1017 483.245 Rebates prohibited; penalties.—

1018 (2) The agency may establish and ~~shall adopt rules that~~
 1019 assess administrative penalties for acts prohibited by
 1020 subsection (1). In the case of an entity licensed by the agency,
 1021 such penalties may include any disciplinary action available to
 1022 the agency under the appropriate licensing laws. In the case of
 1023 an entity not licensed by the agency, such penalties may
 1024 include:

1025 (a) A fine not to exceed \$1,000;

1026 (b) If applicable, a recommendation by the agency to the
 1027 appropriate licensing board that disciplinary action be taken.

1028 Section 22. Subsection (2) of section 765.541, Florida
 1029 Statutes, is amended to read:

1030 765.541 Certification of procurement organizations; agency
 1031 responsibilities.—The agency shall:

1032 (2) Adopt rules as necessary to implement ~~that set forth~~
 1033 ~~appropriate standards and guidelines for the program in~~
 1034 ~~accordance with~~ ss. 765.541-765.546 and part II of chapter 408.

1035 (a) ~~These~~ Standards and guidelines for the program adopted
 1036 by the agency must be substantially based on the ~~existing~~ laws
 1037 of the Federal Government and this state, and the existing
 1038 standards and guidelines of the United Network for Organ Sharing
 1039 (UNOS), the American Association of Tissue Banks (AATB), the
 1040 South-Eastern Organ Procurement Foundation (SEOPF), the North

1041 American Transplant Coordinators Organization (NATCO), and the
 1042 Eye Bank Association of America (EBAA), existing as of January
 1043 1, 2014.

1044 (b) ~~In addition, the agency shall, before~~ Prior to adopting
 1045 ~~these standards and guidelines for the program the agency shall,~~
 1046 seek input from all procurement organizations based in this
 1047 state.

1048 Section 23. Subsection (2) of section 765.544, Florida
 1049 Statutes, is repealed.

1050 Section 24. This act shall take effect July 1, 2014.